



Environmental and social impacts embedded in EU trade policies

The case of EU trade-related autonomous measures in Vietnam

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Trading relations with the EU have a considerable impact on the capacity of third countries to achieve the UN Sustainable Development Goals (SDGs) which comes with a responsibility to address the potential adverse effects of these trade relations. Current EU trade-related autonomous measures such as upcoming European Union legislations on Corporate Sustainability Due Diligence (CSDD) of the Deforestation-free products Regulations (EUDR) are integral parts of that effort.

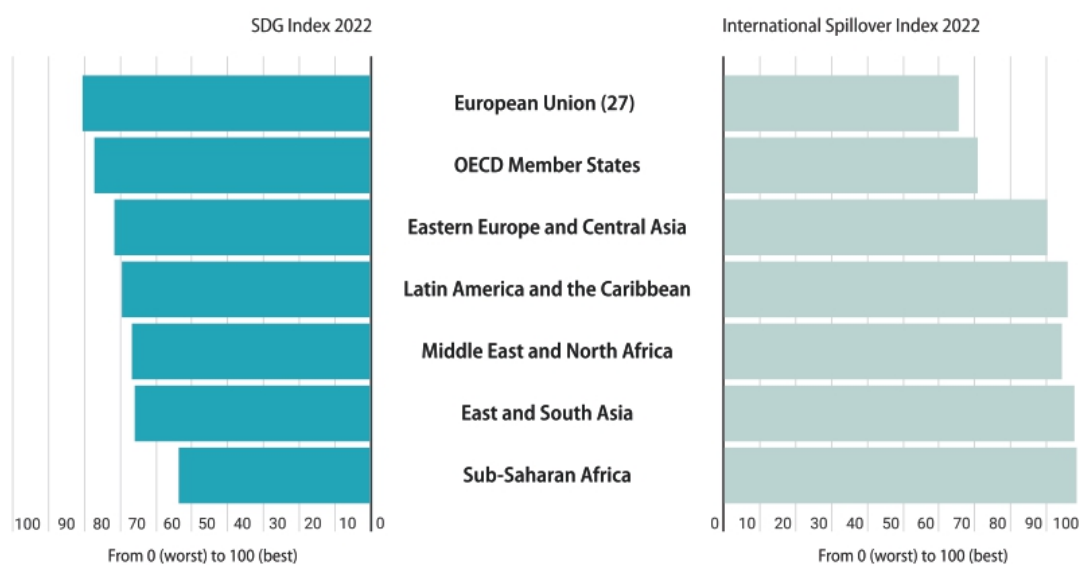
Europe was the first continent to announce a bold commitment to climate-neutrality by mid-century. Yet, the EU has so far mainly focused on its own domestic performance (Ino et al, 2021) and has shown limited capacity or willingness to measure and internalise how its policies impact the ability of other countries to progress on the SDGs and achieve their own sustainable development. This impact, both in terms of benefits or costs, may be referred to as international spillovers and it must be understood, measured and carefully managed since countries cannot achieve the SDGs while negative externalities from other countries are counteracting their efforts (Sachs et al, 2019). The EU climate commitments are eventually meaningless if they are achieved domestically but offset externally.

1. Context

1.1. Considerations on the external impact of the EU

The European Sustainable Development Report 2022 confirms that, while the EU remains the SDG leader globally, it still generates sizeable negative spillovers with serious environmental and socio-economic consequences for the rest of the world (Lafortune et al, 2022). International spillovers occur when one country's actions generate benefits for or impose costs on another country which are not reflected in market prices and therefore not 'internalized' by the actions of consumers and producers (Schmidt-Traub et al, 2017).

Figure 1: SDG Index scores versus International Spillover Index scores



Note: Scores should be interpreted in the same way as the SDG Index, ranging from 0 (worst performance/significant negative spillovers) to 100 (best possible performance/no significant negative spillovers). To allow for international comparisons, most spillover indicators are expressed on a per capita basis. The Spillover Index, presented above, measures transboundary impacts generated by one country that affect the ability of other countries to achieve the SDGs. It incorporates environmental and social impacts embodied in the EU's consumption of foreign goods and services and consumption (negative spillovers include CO₂ emissions, biodiversity threats, and accidents at work), financial spillovers (such as financial secrecy and profit shifting), and security/development cooperation spillovers (ODA and weapons exports).

Source: Sachs et al., 2022. [Link](#).

The EU's low scoring on the Spillover Index indicates its contribution, notably through trade, to negative externalities abroad, limiting the achievement of SDGs by other countries. These externalities such as deforestation, biodiversity loss and environmental impacts, or tolerance for poor labour standards in international supply chains have a detrimental impact on the poorest population, and particularly women in developing countries. The ESDR 2022 links these negative international spillovers to unsustainable EU consumption patterns along with other persisting challenges such as illicit financial flows or unfair tax competition. IEEP recent research also shows that the EU current material footprint per capita is currently 40 to 70% higher than available estimates of a sustainable level that can be considered broadly consistent with limiting environmental pressure within planetary boundaries¹.

¹ <https://ieep.eu/publications/towards-resource-consumption-within-planetary-boundaries>

This suggests that existing EU policies are likely inadequate to reduce resource consumption to a sustainable level. They tend to focus rather on resource efficiency to eventually decouple GDP growth from environmental impact although the capacity for that approach to keep us with planetary boundaries is largely questioned (EEB, 2019)². The ESDR 2022 also shows that there is yet no sign of decoupling between economic prosperity and negative spillovers.

It is unfortunately extremely challenging to attempt and measure the external impact of EU policies at this macro level and limited literature is available on the matter. We therefore aim to dive into specific examples of impact of certain EU policies, in this case the recently published EU proposal for Corporate Sustainability Due Diligence (CSDD) in a specific country that is likely to be most impacted. Vietnam was selected as the country of study because it has very recently signed a Free Trade Agreement (FTA) and therefore boosted its market opportunities in the EU yet, its main exports to the EU are in sectors that are extremely vulnerable to the legislations (electronics and textiles). We note that we also looked at another EU autonomous measures, the Deforestation-free product Regulation (EUDR) as coffee and timber which are covered by the legislations are other important exporting sectors in Vietnam.

1.2. Introduction to the EVFTA

The European Union and Vietnam signed a Free Trade Agreement and an Investment Protection Agreement on 30 June 2019 which entered into force on 1st August 2020.

After 14 rounds of talks starting in June 2012 and following less successful earlier attempts with the Association of Southeast Asian Nations (ASEAN), negotiations of the EVFTA were formally concluded in December 2015. After being split into separate trade and investment agreements related to a European Court of Justice (ECJ) ruling, which stated that the EU does not have the mandate to conclude agreements on certain investment-related issues on its own, the EVFTA was adopted by the European Commission in October 2018, approved by the EU Council in June 2019 and, a week later, on 30 June 2019, signed in Hanoi by both parties. After a green light from the European

Parliament in early 2020, the EVFTA was concluded by the European Council in March, ratified by the National Assembly of Vietnam in June and entered into force on 1 August 2020 (see Table 1).

The EVFTA covers issues such as (i) Market Access for trade in goods; elimination of tariff and non-tariff measures, agreement on standards for key sectors, addressing SPS and TBT issues,

Table 1: Timeline of the EVFTA.

| Date | Event |
|--------|--|
| Oct-10 | EU and Vietnam agree to negotiate FTA |
| Jun-12 | Negotiations officially begin |
| Aug-15 | Agreement on broad lines of EVFTA |
| Dec-15 | Negotiations conclude, legal review starts |
| Feb-16 | Final draft made public |
| May-17 | ECJ ruling with implications for the EVFTA |
| Sep-17 | EU requests Vietnam to split agreement |
| Jun-18 | Vietnam agrees to split agreements |
| Oct-18 | European Commission adopts EVFTA |
| Jun-19 | European Council approves signing |
| Jun-19 | EVFTA officially signed in Hanoi |
| Jan-20 | EP INTA gives its consent |
| Feb-20 | European Parliament gives its consent |
| Mar-20 | EVFTA concluded by Council |
| Jun-20 | Ratified by National Assembly of Vietnam |
| Aug-20 | EVFTA enters into force |

² EEB (2019). Decoupling debunked – Evidence and arguments against green growth as a sole strategy for sustainability. [Link](#).

trade facilitation and customs cooperation, and rules of origin (RoO); (ii) Commitments for the liberalisation of trade in services; (iii) Investment; (iv) Competition; (v) Government procurement; (vi) Regulatory environment; (vii) Sustainable development, including labour issues; and (viii) State-owned enterprises (SOEs) and the market status of Vietnam³. In terms of content, the EVFTA entails an almost full and reciprocal liberalisation of merchandise trade as well as provisions on non-trade barriers, competition policy and public procurement, among others (Grumiller et al., 2018). The Agreement was also promoted as putting a strong focus on sustainable development, to the point that the EU considers that it “can serve as a model for trade agreements concluded between the EU and developing countries”⁴. The EVFTA entered into force in a context of prosperous trade relations between both parties. EU import value from Vietnam reached 38.5 billion EUR in 2021 while exports were worth 10.6 billion EUR i.e. a trade surplus for Vietnam of 27.8 billion EUR, a 20% increase since 2019 when the EVFTA was signed, and more than four times the value of 10 years ago⁵.

This sharp increase in trade flows is due to a combination of factors, including of course the signing of the EVFTA but also and notably the economic success story of Vietnam in the past decades which we develop further in the next section, or the shift away from China for a number of companies, including EU companies, seeking to diversify and upscale the resilience and predictability of their supply chains. China tends to be increasingly seen as a less reliable or efficient actor as it engages in more opaque policy making, thus increasing the perceived risk for EU companies’ investment, reputation or global compliance⁶. Such trends are also true for US companies and are eventually beneficial for neighbouring countries such as Vietnam. Economists at Japanese investment bank Nomura for instance found that Vietnam had been the largest winner from the US-China trade tensions with trade diversion equating to a gain of 7.9% of GDP⁷.

1.3. The economic success story of Vietnam

Vietnam achieved the world’s 8th largest increase in overall globalisation between 2001 and 2019 based on combined trade, capital, information, and people flows as measured in the DHL Global Connectedness Index. The country is even uniquely ranked among the top 10 countries over the past five years (2016-2021) for both the speed (growth rate) and scale (absolute amount) of its trade growth⁸. This represents a culmination of the country’s efforts to scale up its development through its integration into manufacturing value chains since the mid-1980s when exports represented less than 20% of Vietnam’s GDP (see box 1). The country then ranked among the world’s poorest (with a GDP per capita of about \$500 in today’s US dollars). By 2019, exports had then soared to 101% of GDP and Vietnam had reached middle-income status with a GDP per capita of nearly \$3,000 in today’s US dollars (IMF, 2020).

Overall, this trend is expected to continue as Vietnam ranks among the top countries in the world in terms of forecast growth through 2026.

³ See https://ec.europa.eu/commission/presscorner/detail/en/IP_15_5467

⁴ EU-Vietnam declaration announcing the conclusion of the FTA negotiations. [Link](#)

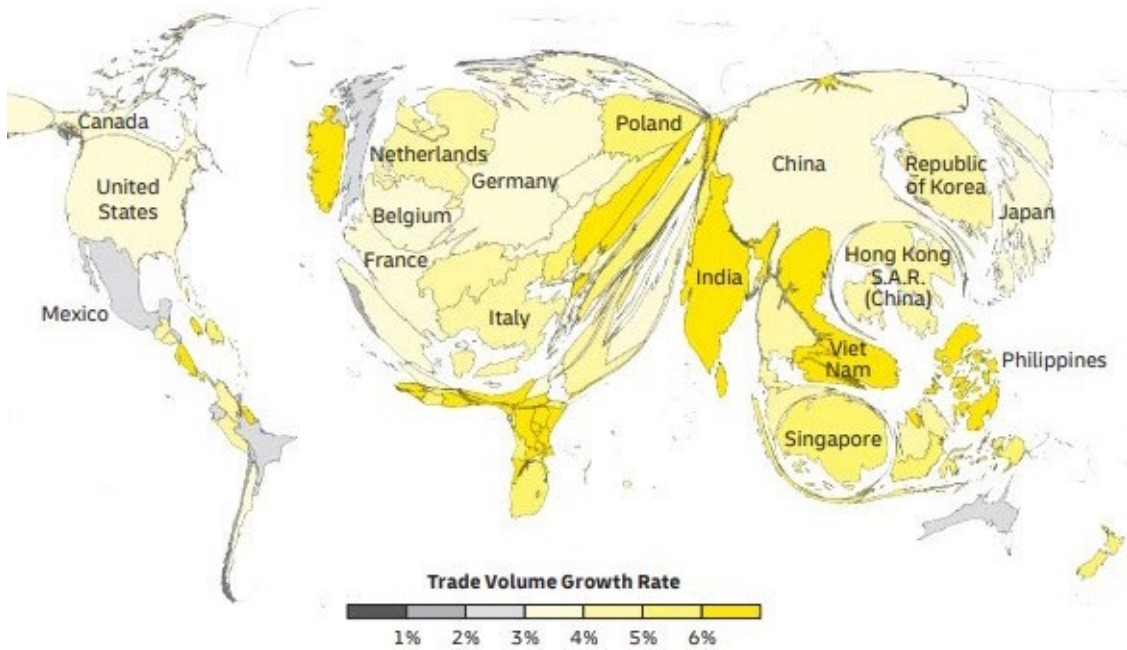
⁵ EUROSTAT - Vietnam-EU - international trade in goods statistics. [Link](#).

⁶ European business in China position paper 2022/2023 - The European Union Chamber of Commerce in China (2022). [Link](#).

⁷ Deutsche Welle (2019). Vietnam is winning US-China trade war. [Link](#).

⁸ DHL trade growth atlas 2022 - Mapping the shifting landscape of global trade. [Link](#).

Figure 2 : Merchandise trade volume growth, IMF forecast, 2021-2026

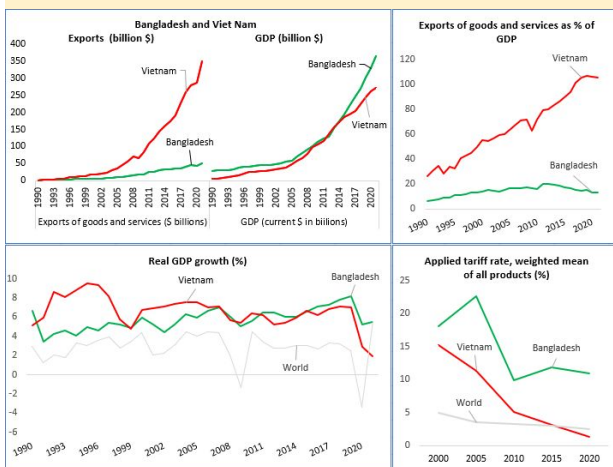


Source: IMF World Economic Outlook April 2022 and IMF Direction of Trade Statistics.

Box 1: Vietnam and Bangladesh - Two Trade Policy Choices:

In 1990, exports from Vietnam and Bangladesh were almost the same at around \$1.7 billion. Since then, Vietnam’s exports rocketed to \$350 billion in 2021, and Bangladesh, which is regarded as an apparel export success story, saw its exports rise to just above \$50 billion.

Vietnam’s export-led growth strategy has seen its export-GDP ratio rise from 25% in 1990 to more than 100% in 2021. The same ratio for Bangladesh, in contrast, peaked at 20% in 2011 and then declined to 13% in 2021.



In the early 1990s, while Bangladesh reduced its applied tariff rate from more than 70% to less than 20%, its import regime remains amongst the most protected ones in the developing world. In fact, Bangladesh is one of the very few countries to achieve and sustain high GDP growth with high protection for its import-competing sector. In 2020, the applied tariff rate in Bangladesh was over 10% compared to only 1.34% in Vietnam (see graphs, Mansur, 2018).

Most importantly, Vietnam's trade policy choices tended to invest more in human capital, infrastructure, FDI inflows and thus gained strong trade competitiveness (Nhat Chi Mai, 2019). Eventually, and while Bangladesh performed better in terms of GDP growth in the 2010s, Vietnam's GDP per capita is today 40% higher (World Bank). These two nations stand out as classic contrasting examples of trade policy choices between export-orientation and import-substituting industrialisation.

The EVFTA was deemed a strong fit in that economic success story as the EU considered it 'the most ambitious and comprehensive FTA that the EU has ever concluded with a developing country' (European Commission, 2016, p. 7). Data from the General Department of Vietnam Customs showed that the EU is now the third biggest export market and the fifth largest import market of Vietnam. Meanwhile, Vietnam surpassed Singapore to become the biggest trade partner of the EU in ASEAN and the world's 11th biggest supplier of goods to the bloc⁹. Furthermore, modelling from the World Bank estimate that Vietnam's GDP would increase by 2.4% in standard productivity by 2030 under the EVFTA relative to the baseline scenario, while exports and imports would increase by 12% and 14% respectively (World Bank, 2020). We provide more details on the EU-Vietnam trade relations in Section 2 below.

Last but not least, a sustainable Impact Assessment of the EVFTA conducted by International Economics in 2015 also concluded that the agreement might have a "limited, albeit positive impact on reducing poverty levels in Vietnam" with an expected 51.900 people escaping poverty with the implementation of the FTA¹⁰. World Bank estimations even increase the number of additional people lifted out of poverty due to the full implementation of the EVFTA to 0.1-0.8 million by 2030 (Ibid.)

1.4. The social, environmental and human rights context of the EVFTA

Vietnam's achievements in economic growth and poverty alleviation have been praised by the development community¹¹ and the EVFTA is perceived as further supporting these successes. Yet, a recent review of the agreement by IEEP (2022) concluded that its provisions aiming to address social, environmental and human rights challenges in the country were not living up to the same standards. Although the EVFTA Trade and Sustainable Development (TSD) Chapter indeed expands the coverage of international agreements to be ratified as part of the parties' commitments, it still fails to address key concerns related to the operationalisations of provisions aiming to foster sustainability in the TSD Chapter as highlighted in Table 2 below.

⁹ Ministry of Industry and Trade (MOIT) of Vietnam (October 2022). [Link](#).

¹⁰ Sustainable Impact Assessment of the EU-Vietnam Free Trade Agreement. International Economics (2015). [Link](#).

¹¹ See for instance Share4VNDev. Poverty Reduction in Vietnam: Achievements and Challenges. [Link](#).

Table 2: Review of sustainability aspects in EVFTA:

| Positive aspects | Negative aspects |
|--|---|
| <ul style="list-style-type: none"> ❖ Commonly reaffirming parties' commitments to 12 MEAs (Paris Agreement, CBD, CITES) which is a strong MEAs coverage. ❖ Highlighting the need to exchange information and cooperate to implement these commitments. ❖ Including the welfare perspective of present and future generations. This is a relatively new addition into FTA provisions although it so far lacks transcription in concrete actions/provisions. ❖ Including clauses on climate change, biodiversity, forestry, fisheries, sustainable energy and investment which is reflective of latest FTAs wide coverage. | <ul style="list-style-type: none"> ❖ Questions on the applicability of the language used on environmental aspects e.g. provisions stating that measures to implement MEAs "should not 'constitute a means of arbitrary or unjustifiable discrimination between the parties or a disguised restriction on trade". ❖ No mention of the Sustainable Development Goals (SDGs) ❖ No monitoring framework for concrete action or progress required from the parties on the implementation of MEAs. ❖ No new SIA commissioned to support the FTA negotiations; sole reliance on a 6-years old EU-ASEAN SIA, which lacked country-specific conclusions. ❖ Civil society meetings were held prior to EU-Vietnam negotiations ending but as an ex-post briefing of negotiations status (Oct 2015). |

Source: author.

From the outset there was a significant amount of criticism of the EVFTA due to the Vietnamese government's contested records on human and labour rights. Human rights concerns in Vietnam included detention of human rights activists and journalists, violations of the freedom of expression and the right to protest, the restriction of democratic freedoms and violence against women¹². A human rights impact assessment (HRIA) was eventually demanded by civil society organisations and the European Parliament to assess the human rights situation in Vietnam, as well as the impact the FTA would have on human rights, and the action needed to address these issues¹³. But the European Commission argued that human rights clauses in the EVFTA were sufficient, and that no assessment was required.

However, such human rights clauses appear to be of limited use for addressing the human rights issues that are prevalent in Vietnam because they are only activated in exceptional circumstances such as a *coup d'état* or in other situations where there is political unrest (Prickartz and al, 2019). A case was therefore brought by civil society organisations to the European Ombudsman for failure to conduct an HRIA, which she concluded constituted maladministration¹⁴. However, no subsequent HRIA was conducted by the Commission prior to the EVFTA coming into force.

¹² See e.g. Human Rights Watch, World Report 2022, Vietnam. [Link](#).

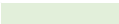
¹³ European Parliament resolution (17/04/2014) on the state of play of the EUVFTA, Parag. 1&25. [Link](#).

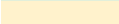
¹⁴ European Ombudsman, Decision in case 1409/2014/MHZ on the European Commission's failure to carry out a prior human rights impact assessment of the EU-Vietnam free trade agreement (26/02/2016). [Link](#).

In relation to labour rights, the EVFTA was negotiated in a context of significant external pressure for Vietnam to implement social reforms, such as the parallel negotiation of the Trans-Pacific Partnership (TPP) which included demands by the US, internal debates and social struggles but also involvement of the European Parliament on the matter. These pressures are credited with being important in the Vietnamese government's decision to ratify ILO Convention 98 (Right to Organise and Collective Bargaining), to pass a new labour code, and to create a roadmap for ratifying the ILO core conventions to which it is not yet party (Marslev and al, 2021). This pre-ratification period is where the EU is in its strongest position to demand reform from potential trade partners (Smith, et al. 2020) and prior efforts bore fruits in several FTA negotiations processes, including with Vietnam (table 3).

Table 3: Ratification of fundamental ILO conventions by EU FTA partners.

| Ratification of fundamental ILO conventions by EU FTA partners | | | | | | | | |
|--|------------------------|------------|------------|-------------|------------|------------|------------|------------|
| EU FTAs | | Canada | Mexico | South Korea | Japan | Singapore | Vietnam | |
| Conclusion of negotiations* | | 30/10/2016 | 21/04/2018 | 06/10/2010 | 17/07/2018 | 19/10/2018 | 30/06/2019 | |
| Ratification of ILO fundamental conventions | Freedom of association | C087 | 1972 | 1950 | 2021 | 1965 | X | X |
| | | C098 | 14/06/2017 | 23/11/2018 | 2021 | 1953 | 1965 | 05/07/2019 |
| | Forced labour | C029 | 2011 | 1934 | 2021 | 1932 | 1965 | 2007 |
| | | C105 | 1959 | 1959 | X | 2022 | X | 14/07/2020 |
| | Discrimination | C100 | 1972 | 1952 | 1997 | 1967 | 2002 | 1997 |
| | | C111 | 1964 | 1961 | 1998 | X | X | 1997 |
| | Child labour | C138 | 08/06/2016 | 2015 | 1999 | 2000 | 2005 | 2003 |
| | | C182 | 2000 | 2000 | 2001 | 2001 | 2001 | 2000 |

 Ratification of convention that can reasonably be linked to the FTA negotiations process

 Ratification of convention that stems for the TSD dispute settlement mechanism

Note: We consider here the date for conclusion of the negotiation i.e. the date of signature of the agreement rather than the date of ratification or entry into force. We consider that the bargaining power of the EU fades after the conclusion of the negotiations, irrespective of when the agreement enters into force. We consider the ratification of a convention to be linked to the FTA negotiation process if it occurred within a 13-month range around the date of conclusions of the negotiations.

Source: author from ILO ratification of fundamental conventions by country. [Link](#).

However, since the EU-Vietnam FTA has come into force, concerns have been raised that Vietnam's labour reforms do not in fact allow for independent trade unions, and that progress on labour reform has otherwise stalled, despite the commitments made (Buckley, 2022, Hutt, 2021). The European Trade Union Confederation (ETUC) for instance called in December 2019 on the European Parliament to oppose the ratification of the EVFTA until Vietnam has ratified, or defined a binding roadmap to ratify, ILO Convention 87 and Convention 105 on the abolition of forced labour¹⁵. Vietnam defined a roadmap, ratified Convention 105 but has not yet ratified Convention 87 on freedom of association and protection of the right to organise. The latter is expected to be ratified in 2023. The EU DAG to the FTA also raised concerns about the ongoing imprisonment of civil society activists in Vietnam and about the necessity for Vietnamese DAG constituted under the FTA to be composed of "independent representative organisations"¹⁶. The European Parliament eventually adopted a resolution on 21 January 2021 on the human

¹⁵ ETUC position on the EU-Vietnam Free Trade and Investment Protection Agreements. [Link](#).

¹⁶ EU DAG Statement on the occasion of the 1st Vietnam – EU Joint Civil Society Dialogue Forum meeting on 12/11/21. [Link](#).

rights situation in Vietnam¹⁷ in reaction to these evolutions, demanding the immediate release of the imprisoned journalists, human rights and environmental defenders, trade unionists and prisoners of conscience. In the same resolution, the European Parliament calls for Vietnam to revise its criminal code which governs notably the rights to freedom of association in Vietnam and is in direct contradiction to ILO convention 087 despite Vietnam's commitment to ratify it.

Arguments were made that the EU should have put more pressure on the Vietnamese government prior to the conclusion of the negotiations to press for domestic (legal) reforms and obtain so called "pre-ratification commitments", whether this relates to labour or environmental standards. The EU might have taken inspiration for instance from the US model of FTA compliance which formally involves several layers of the administration, from the U.S. Trade Representative (USTR) to the president to ensure that the FTA partner implement domestic reforms before the agreement can enter into force (Velut et al. 2022). The negotiations of the EVFTA indeed took place in parallel to talks over the Trans-Pacific Partnership (TPP) Agreement, an FTA between 12 countries along the Pacific Rim. While the TPP was scrapped with the US withdrawal, the groundwork of US negotiators related to the labour chapter allows to contextualise the impact of the EVFTA. The US negotiated a bilateral 'Consistency Plan', signed in February 2016, detailing the legal-institutional reforms that Vietnam needed to make prior to the entry into force of the TPP. The US did put much more pressure on pre-ratification conditions than the EU. We note that, after the US exit, negotiations continued and in March 2018, Vietnam and ten other countries signed the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which retained the labour chapter, but – without the Consistency Plan – placed significantly weaker demands on Vietnam.

Regarding labour rights, the parties reaffirms, as in other EU FTAs, their commitments to the ILO 1998 Declaration in the TSD chapter of the EVFTA, including freedom of association and collective bargaining. The agreement, however, is notably vague, requiring each party to 'make continued and sustained efforts towards ratifying, to the extent it has not yet done so, the fundamental ILO conventions' (Art. 13.4.3a) and to 'effectively implement in its domestic laws and regulations and practice' the content of those conventions (13.4.4). In terms of enforcement, the TSD chapter follows the usual dialogue-based design.

On environmental aspects, studies such as Heyl, K. et al. (2021) conclude that, despite a strong mention of MEAs and articles dedicated to trade and environment in the TSD Chapter (see table 4), the EVFTA lacks a comprehensive legal framework to uphold/enhance environmental protection as effective measures to ensure environmental protection as required by the goals of the Paris Agreement and the CBD are missing.

Table 4: Overview of the trade and environmental provisions included in the EVFTA TSD Chapter

| Explicit reference to key MEAs | | | | | | |
|--|-----------------|----------------|-------------------|-----|-------|-------|
| UNFCCC | Paris Agreement | Kyoto Protocol | Montreal Protocol | CBD | CITES | Total |
| ✓ | ✓ | ✓ | | ✓ | ✓ | 12 |
| Specific environmental area provisions | | | | | | |

¹⁷ EP resolution of 21 January 2021 on the human rights situation in Vietnam, in particular the case of human rights journalists Pham Chi Dung, Nguyen Tuong Thuy and Le Huu Minh Tuan (2021/2507(RSP)). [Link](#).

| Biodiversity | Forests & timber products | Marine resources & aquaculture | Climate change | Trade for sustainable development | Responsible management of supply chains | Total |
|--------------|---------------------------|--------------------------------|----------------|-----------------------------------|---|-------|
| ✓ | ✓ | ✓ | ✓ | ✓ | | 5 |

Source: Blot, E. & Kettunen, M. (2021).

Moreover, weak dispute settlement mechanisms to ensure compliance with sustainability measures limits their effectiveness. In addition, the provisions on regulatory cooperation and investor-state dispute settlement under the Investment Protection Agreement are likely to negatively affect the decision-making processes and (thus) discourage ecological pioneering policies in the trading Parties. Eventually, the EVFTA is deemed not compatible with global environmental goals. The SIA conducted by International Economics also concluded that the FTA was “likely to have a very limited impact on the environment as Vietnam’s growth will inherently be detrimental to CO₂ emissions and other polluting issues”¹⁸ and recommended that such environmental issues be addressed with environmental rather than trade policies.

A notable miss in the context of this study is the absence of specific text on Responsible management of supply chains in the EVFTA although the agreement does cover the notions of Corporate Social Responsibility (See section 3.1).

2. Analysis of EU-Vietnam trade flows and value chains

2.1. EU-Vietnam trade relations in a changing social and environmental context.

Trade relations between Vietnam and the EU have been relatively stable for over three decades and the EU was the third-largest export market and the sixth-largest import market for Vietnam in 2018¹⁹. From 2001 to 2018, Vietnam’s exports to the EU have steadily grown at an average annual rate of 16% even though the share of Vietnam’s total exports to the EU slightly decrease from 21% to 17% (although with strong variations among sectors as shown in table 6 below). Similarly, the annual growth rate of Vietnam’s imports from the EU has been 14% on average (World Bank, 2020).

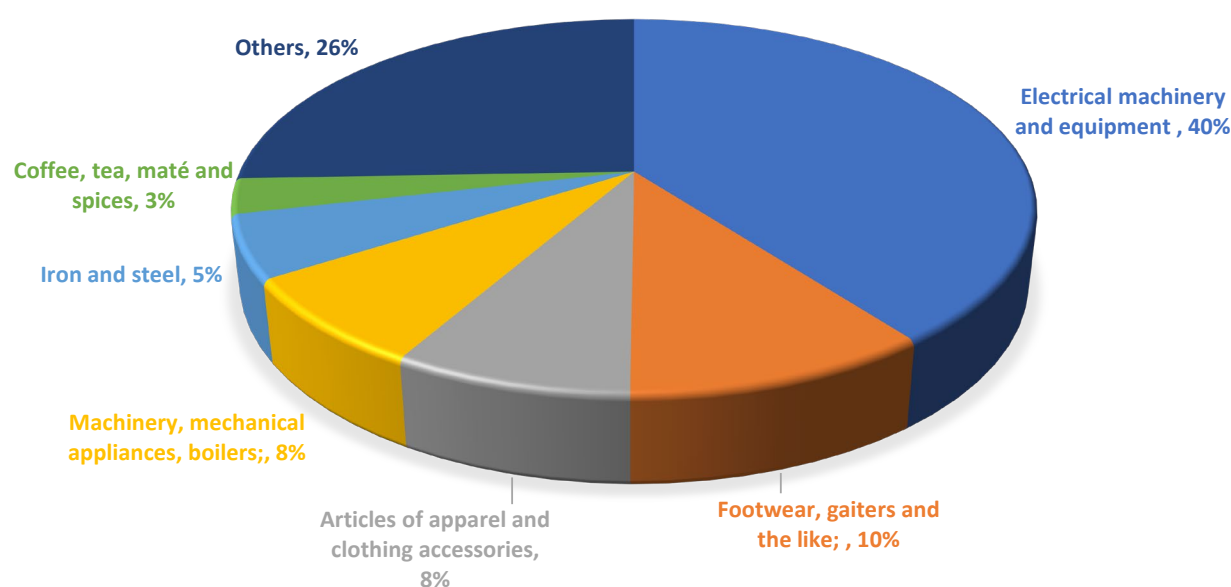
Furthermore, bilateral trade between Vietnam and the EU tends to support strengthening Vietnam’s key global value chains as Vietnam’s most popular exports include manufacturing (electronics and electrical equipment, apparel, machinery etc.), agricultural products such as coffee or timber (World Bank, 2020).

¹⁸ Ibid.

¹⁹ WITS. World Bank. [Link](#).

Table 5: Vietnam's exports to the European Union (2021, value, thousand EUR).

| Product code | Product label | Viet Nam's exports to European Union (EU 27) | | | |
|--------------|--|--|---------------|---------------|-------|
| | | Value in 2019 | Value in 2020 | Value in 2021 | Total |
| 'TOTAL | All products | 31,918,086.00 | 30,731,024.00 | 33,857,625.00 | 100% |
| '85 | Electrical machinery and equipment and parts thereof | 13,201,979.00 | 12,963,027.00 | 13,433,675.00 | 40% |
| '64 | Footwear, gaiters and the like; parts of such articles | 4,109,614.00 | 3,465,482.00 | 3,538,461.00 | 10% |
| 61 & 62 | Articles of apparel and clothing accessories | 3,129,017.00 | 2,697,929.00 | 2,760,750.00 | 8% |
| '84 | Machinery, mechanical appliances, nuclear reactors, boilers; | 2,323,800.00 | 2,686,054.00 | 2,594,785.00 | 8% |
| '72 | Iron and steel | 275,090.00 | 241,326.00 | 1,836,649.00 | 5% |
| '09 | Coffee, tea, maté and spices | 1,067,660.00 | 954,541.00 | 1,030,004.00 | 3% |
| | Others | 7,810,918.00 | 7,722,704.00 | 8,663,348.00 | 26% |

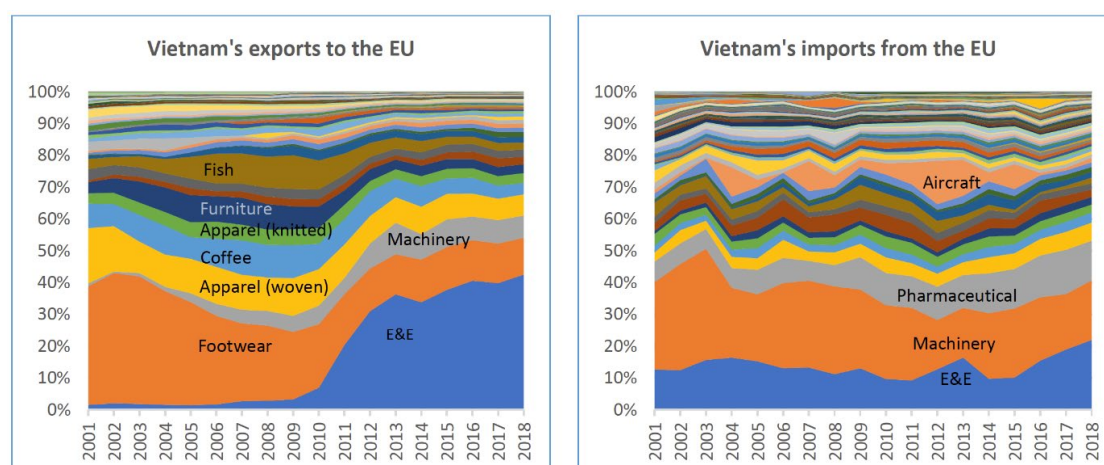
Graph 1: Bilateral trade between Vietnam and the EU (2021, value)

Source: Author, from ITC trade map. <https://www.trademap.org/>

These products fall mostly into two groups: capital goods and consumer goods. Vietnam consistently upgraded its export mix over time with a strong increase of the share of exports of capital goods deriving mostly from an increase in the export of electronics products even as it continues to be a major exporter of textiles. Electronics comprised 40% of Vietnam's goods exports in 2019, up from just 6% in 2000, taking over market shares from textiles which declined from 30% to 24% over the same period²⁰.

The same trend can be observed, in an even steeper evolution, when looking at Vietnam's exports specifically to the EU (Table 6). Vietnam imports from the EU on the other hand remained relatively stable over the past two decade.

²⁰ Atlas of Economic Complexity – Country profile: Vietnam. [Link](#).

Table 6: EU-Vietnam sectoral trade relationship


Source: World Bank, 2020; Note: E&E = electronics and electrical equipment

Social Context

The sectors of employment in Vietnam are relatively equally distributed among Agriculture, Industry and Services with respectively, 27%, 30% and 35% of the workforce²¹. Average monthly earnings of women employees amount to 87% of man employees which remains a significant gap although we assume that such a number hides high discrepancies among different sectors.

Table 7: Labour indicators in Vietnam (2021)

| Indicators | Total | Men | Women |
|---|--------------------|--------------------|--------------------|
| Labour force participation rate (%) | 73 | 78 | 68 |
| Employment-population ratio (%) | 71 | 76 | 67 |
| Share of managers, professionals (incl. associates) and technicians (%) | 11 | 10 | 12 |
| Share with less than basic education (%) | 11 | 9 | 12 |
| Share with advanced education (%) | 14 | 13 | 15 |
| Unemployment rate (%) | 2 | 3 | 2 |
| Share of youth not in employment, education or training (%) | 15 | 14 | 16 |
| Average monthly earnings of employees - VND Dong (Euro in Jan-23) | 6,746,288 (268.55) | 7,130,423 (283.84) | 6,244,640 (248.58) |
| Monthly minimum wage, local currency | 3,895,500 (155.07) | N.A. | N.A. |
| Average weekly hours actually worked per employed person | 39 | 40 | 38 |
| Share of employed working more than 48 hours per week (%) | 27 | 30 | 24 |
| Collective bargaining coverage rate (% , 2018) | 25 | N.A. | N.A. |
| Trade union density rate (% , 2018) | 50 | N.A. | N.A. |
| Population covered by at least one social protection benefit (% , 2020) | 39 | N.A. | N.A. |

Source: ILO-STATISTICS - Micro data processing. [Link](#). Exchange rate InforEuro. [Link](#).

The figures presented above tend to paint a relatively positive picture of the labour situation in Vietnam in terms of unemployment rate, distribution among socio-professional categories, average weekly hours worked, or average monthly earnings of employees compared to official minimum wage. Yet some figures remain less positive with close to a third of employees working more than 48h per week, which is over the legal limit in the EU as per the EU's Working Time Directive (European Commission, 2003).

²¹ ILO Stats – Vietnam. [Link](#).

The Vietnamese workers' average monthly salary also remains only a seventh of the regional average²² although Vietnam's National Wage Council an average increase of 5.5 percent in region-based minimum wage for non-state employees, starting from January 2020. Other progresses on labour conditions were promoted in the new national labour code adopted in 2021 (see Box 2).

Box 2: The new Labour code in Vietnam

Vietnam issued an amended Labour Code effective as of January 2021²³ as a step towards aligning with international labour standards to accompany the integration of Vietnam in the world economy. Key provisions of the new labour code entail:

Working hours: normal working hours cannot exceed eight hours a day or 48 hours per week, except under specific exemptions based on prior agreement between employee and employer, or to address higher workloads in certain sectors subject to seasonal demand (such as textile).

Labour contracts: only two types of labour contracts are listed (against three previously. Definite-term contracts, which cannot have a term longer than three years and can be renewed only once, and indefinite-term contracts. Seasonal contracts are no longer permitted as of 2021.

Termination: For unilateral termination, employers must give prior notice of at least 120 days for indefinite term contracts and at least a quarter of the duration for contracts less than 12 months. Furthermore, employees will be able to immediately terminate a contract for mistreatment, pregnancy or if the employer fails to pay salary on time (against previous legislation which required a minimum notice of 30 days for definite term and 45 days for indefinite term).

Labour Unions: Vietnam now allows independent trade unions, so called workers' representative organisations (WRO), to operate as opposed to currently being supervised by the state-run Vietnam General Confederation of Labour (VGCL). The independent union will still be required to get permission from state authorities to operate.

Discrimination: The new code has safeguards protecting employees from discrimination at the workplace. This includes protection from sexual harassment and discrimination based on skin colour, race, nationality, ethnic group, gender, marital status, pregnancy, political views, disability, HIV status or if in a trade group.

Most importantly, these figures do not cater for the informal economy which might skew this overall positive impression. Yet, World Economics estimate the size of Vietnam's informal economy to be "only" 20.5% of the country's GDP which, although a relatively high number, remains

²² Total Workforce Index (2019). [Link](#).

²³ Decree 145/2020/ND-CP accessible [here](#).

below the ratio of several EU member States such as Spain (21.3%) or Italy (23.7%)²⁴. Other sources estimate the size of the informal economy in Vietnam between 15% and 27% of GDP (Nguyen Thai Hoa, 2019), thus tempering the idea that the incorporation of the informal economy in the overall labour figures presented above would significantly alter the results²⁵. Furthermore, studies show that the trade openness resulting from the inclusion of Vietnam in the world economy, including through the signing of the EVFTA, has had a positive impact on reducing the size of the informal economy in the country (Ha Hoang, 2020).

That being said, informality remains extremely present in specific sectors such as agriculture which will shed a particular light in the potential impact of due diligence processes in agricultural value chains. Overall, The ILO recommends for Vietnam to implement a formalisation strategy through coordinated and comprehensive approach as “promoting economic growth, although an important element, is not enough in itself” (ILO, 2021).

Environmental context

According to the third and final report of the UN’s Intergovernmental Panel on Climate Change (IPCC) sixth assessment published in April 2022, warning that it is “now or never” to limit global warming to 1.5°C, it is clear that the climate crisis is accelerating at a pace like never before. From deforestation and droughts to air pollution and plastic waste, there are several factors exacerbating climate change and its consequences are felt everywhere in the world. However, countries in the global south such as Vietnam suffer the most, as they often lack financial resources to tackle the emergency. Furthermore, Vietnam, with over 3,200 km of coastline and many low-lying cities and river delta regions, remains amongst the most vulnerable countries in the world to climate change (World Bank, 2020).

Vietnam is the World's 19th largest Greenhouse Gas (GHG) emitter, with a total share of 0.88% of total GHG emissions, and scores 95.2 on the World Economics Emission Index²⁶ which places the country 17th worldwide between Germany and Algeria. The emissions are also on an upward trend (see Graph 2.) Yet the country’s carbon emission per Capita is only of 4.5 tCO₂e per person²⁷ which is quite low (as a comparison, Germany and China emit 8 tCO₂e per person, the US 15 tCO₂e per person)²⁸.

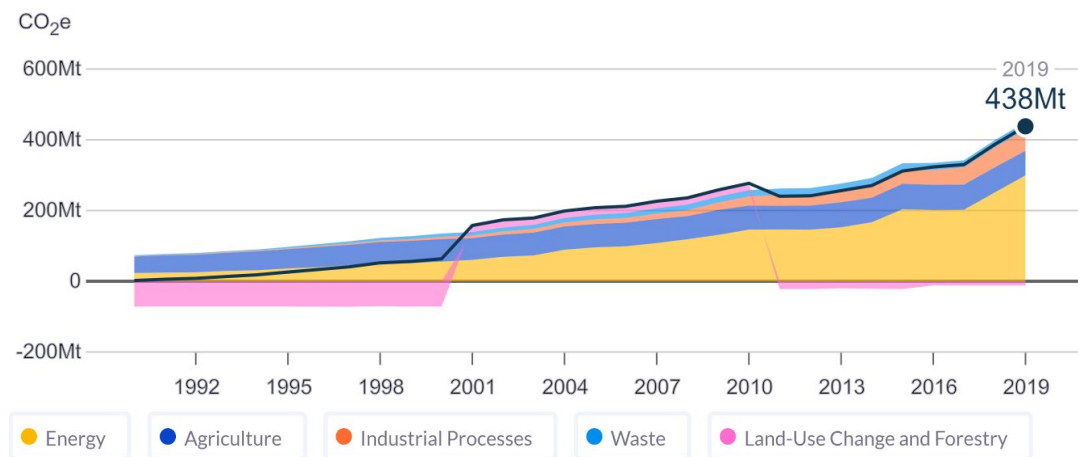
²⁴ World Economics (2022). Vietnam's Informal Economy Size. [Link](#)

²⁵ There is a wide discrepancy on the number of informal workers in Vietnam based on different data sources and their definitions of informality. For instance using the ILO definition suggests there were 38.8 million informal workers in the country in 2018 (ILO, 2021), while the Vietnamese National Statistical Office (GSO) definition suggests there were only 19.3 million – or about one half – as it does not include household agricultural production. For the purpose of this study which aims to analyse export trends and patterns, it makes sense to not consider household agricultural production in informality numbers either.

²⁶ The WEEI integrates other aspects such as air quality or water accessibility.

²⁷ Climate Watch. [Link](#).

²⁸ World Economics. [Link](#).

Graph 2: GHG historical emissions of Vietnam by sectors

Source: Climate Watch. [Link](#).

Vietnam submitted its latest Nationally Determined Contribution (NDC) in November 2022. The Paris Agreement calls on countries to deliver new Nationally Determined Contributions (NDCs) every five years that are informed by the latest advances in technology, science and shifting economic trends. In its NDC, Vietnam commits to reducing its emissions by 15.8% (unconditional) and by 43.5% (conditional) by 2030 compared to “Business as Usual” (BAU). Yet the NDC lacks differentiated sectorial approach as it does not include strengthened or added sectoral targets.

The private sector is also picking up on the process as 8 companies in Vietnam are now committed to set a “Science-Based Target” (i.e. in line with what the latest climate science deems necessary to meet the goals of the Paris Agreement) according to the “companies taking action tracker”²⁹. This trend is up from 2 companies in 2021, and 0 in 2020 and before. One company, Frasers property development services co., ltd, even set a 1.5° target through a 46.2% reduction of its absolute scope 1 & 2 GHG emissions by 2030 from 2019.

This sense of urgency must be supported as climate change impacts such as higher and more variable temperatures or sea level rise are already disrupting economic activity and undermining growth with initial calculations suggesting that Vietnam lost \$10 billion in 2020, or 3.2 percent of GDP, to climate change impacts. This trend will only get worse as it is estimated that, without proper adaptation and mitigation measures, climate change will cost Vietnam 12% to 14.5% of GDP a year by 2050 and could plunge up to one million people into extreme poverty by 2030 (World Bank, 2022).

2.2. A heatmap of relevant value chains for detailed analysis

Methodology

We aimed in this study to select several value chains for further analysis against the current of future impacts of due diligence legislations. To do so, we retained a number of economic,

²⁹ Science Based targets/Companies taking action. [Link](#).

social, environmental and human rights criteria measured by a number of indicators as listed in table 8.

Table 8: Criteria and indicators for value chain selection

| In our analysis, we sought to use the following criteria (list non exhaustive) |
|---|
| <p><i>Economic criteria:</i></p> <ul style="list-style-type: none"> ▪ Trade volume; trade value; share of the GDP and/or of total exports. ▪ Evolution of Vietnamese key exports to the EU in the context of the EVFTA. ▪ Recent evolution of trade flows and opportunities in the context of EU diversification from China. |
| <p><i>Social, environmental, and human rights criteria:</i></p> <ul style="list-style-type: none"> ▪ Risks of adverse impacts. ▪ Information on the domestic situations and existing vulnerabilities in the EU and Vietnam. ▪ Relevant for the energy & circular economy transition of both partners. |
| <p><i>Existence of relevant legislation affecting the sector in the EU and/or in Vietnam:</i></p> <ul style="list-style-type: none"> ▪ General or sector-specific due diligence legislation(s). ▪ Other relevant policies e.g. deforestation, CBAM, circular economy, energy efficiency etc. |
| <p><i>DAG members inputs:</i> all information provided by DAG members will be included in the analysis and weighed against the other criteria</p> |

Source: author.

Based on the criteria listed above, we developed a heat map to help identify the most relevant value chains and prioritise and focus the project's resources on these study elements. A heat map is a schematic overview (Table or Figure) that shows the key issues that are most impacted and most impactful in a certain policy context, in this case: the EVFTA. We also provide a short analysis per value chain to report on the origin and characteristics of the different impact alerts identified in the table in the context of the EVFTA (See section 2.2.2). The development of the heat map was done based on desk research and thorough literature review as well as interviews with key informants. The heat map contains the following information:

- All candidate sectors/value chains in the first column, and key criteria of interest in the first row.
- The information that is shown in the heat map is the following:
 - Key economic and sustainability issues that are linked to the FTA.
 - Main findings of the 1st screening and scoping of issues.
 - We look at the incidence and intensity of 'relevant impact' within a given sector for more criteria (horizontally) or for the same criteria across multiple sectors (vertically) to prioritise. This leads us to conclude which sectors or value chains should get particular attention for the study.

Short analysis of potentially relevant value chains

We present below a short analysis of 10 potentially relevant Value Chains to assess their relevance in the light of the criteria outlined in table 8. More detailed information on these selected value chain, including sources of the figures and assertions outlined in the table, are provided in section 4.1.

Table 9: Review of relevant EU-Vietnam value chains³⁰

| Electrical & Electronic Equipment (product code: 85) | |
|--|--|
| Economic | <ul style="list-style-type: none"> ▪ Export to the EU (rank among Vietnam exports to the EU): 13Bn€ (1st)³¹. ▪ Product export value / Total export value (rank): 39% (1st). ▪ Product export to the EU / Product total export: 12%. ▪ Evolution since entry into force of the EVFTA: +2%. |
| Social, Environmental and human rights | <ul style="list-style-type: none"> ▪ Sector subject to poor labour conditions and lack of transparency. ▪ Social and environmental concern as per the sourcing of material needed to produce E&E. |
| Relevant legislation(s) | <ul style="list-style-type: none"> ▪ No specific Due Diligence related legislation. ▪ New labour code in Vietnam stipulates that seasonal orders during peak season require an extensive workload and authorise an increased overtime cap of 300 hours per year above the new legal limit (48h a week). This is also valid in the textile sector (see box 2). ▪ Relevant delegated act under the EU Regulation on eco-design for sustainable products (entry into force not before 2024). |
| DAGs feedbacks | <ul style="list-style-type: none"> ▪ Interviewees confirmed E&E as a key value chain to be considered. |

³⁰ **Note:** This table gathers comments and findings that are referenced in relevant sectoral subsections of section 4.

³¹ **Note:** economic figures indicated in this table are extracted from ITC trade map accessible [here](#).

| Footwear, gaiters and the like (product code 64) | |
|--|--|
| Economic | <ul style="list-style-type: none"> Export to the EU (rank): 3.5 Bn€ (2nd). Product export value / Total export value (rank): 14% (2nd). Product export to the EU / Product total export: 23% (3rd). Evolution since entry into force of the EVFTA: -14%. |
| Social, Environmental and human rights | <ul style="list-style-type: none"> Sector prone to serious risks of human and labour rights violations, including child labour, discrimination, forced labour, occupational health and safety concerns, and unfair wages. Increased overtime cap under new labour code in Vietnam. |
| Relevant legislation(s) | <ul style="list-style-type: none"> Sectors considered as “high impact” under the EU CSDD proposal. EU strategy for sustainable and circular textiles (March 2022). Vietnam Law on Environmental Protection (2022) EU regulation to prohibit products made using forced labour, including child labour, on the EU internal market (2024?). EU regulation on Ecodesign for Sustainable Products (2023?) |
| DAGs feedbacks | <ul style="list-style-type: none"> Interviewees confirmed textile as a key value chain to be considered. |
| Articles of apparel and clothing accessories (product code 61 & 62) | |
| Economic | <ul style="list-style-type: none"> Combined export to the EU (rank): 2,8 Bn€ (3rd). Product export value / Total export value (rank): 9% (3rd). Product export to the EU / Product total export: 11%. Evolution since entry into force of the EVFTA: -12%. |
| Social, Environmental and human rights | <ul style="list-style-type: none"> Sector also prone to serious risks of human and labour rights violations. Increased overtime cap under new labour code in Vietnam. |
| Relevant legislation(s) | <ul style="list-style-type: none"> Same as for footwear, gaiters and the like (product code 64) above |
| DAGs feedbacks | <ul style="list-style-type: none"> Interviewees confirmed textile as a key value chain to be considered. |
| Machinery (product code: 84) | |
| Economic | <ul style="list-style-type: none"> Export to the EU (rank): 2,6 Bn€ (4th). Product export value / Total export value (rank): 7% (4th). Product export to the EU / Product total export: 13%. Evolution since entry into force of the EVFTA: +12%. |
| Social, Environmental and human rights | <ul style="list-style-type: none"> High GHG emitting sector. |
| Relevant legislation(s) | <ul style="list-style-type: none"> No specific Due Diligence related legislation. |
| DAGs feedbacks | <ul style="list-style-type: none"> No particular mention of the sector in the interviews. |
| Iron and steel (product code: 72) | |
| Economic | <ul style="list-style-type: none"> Export to the EU (rank): 1.8 Bn€ (5th). Product export value / Total export value (rank): 4% (5th). Product export to the EU / Product total export: 18%. Evolution since entry into force of the EVFTA: +568%. |
| Social, Environmental and human rights | <ul style="list-style-type: none"> High GHG emitting sector both for production and export. |
| Existence of relevant legislation(s) | <ul style="list-style-type: none"> EU regulation for a Carbon Border Adjustment Mechanism (CBAM). No specific Due Diligence related legislation. |
| DAGs feedbacks | <ul style="list-style-type: none"> No particular mention of the sector in the interviews. |
| Coffee, tea, maté and spices (product code: 09) | |
| Economic | <ul style="list-style-type: none"> Export to the EU (rank): 1 Bn€ (6th). Product export value / Total export value: 1%. Product export to the EU / Product total export: 33% (1st). Evolution since entry into force of the EVFTA: -4%. |

| | |
|---|---|
| Social, Environmental and human rights | <ul style="list-style-type: none"> key coffee growing areas may eventually become unsuitable under intermediate emissions pathways. Significant number of small producers and vulnerable communities involved in the production of coffee. Coffee production linked to commodity-deforestation patterns. |
| Relevant legislation(s) | <ul style="list-style-type: none"> No specific Due Diligence legislation. EU Deforestation-free Regulation (entry into force foreseen in 2023 with additional 18-month period before obligations for exporters to comply). |
| DAGs feedbacks | <ul style="list-style-type: none"> Interviewees confirmed coffee as a key value chain to be considered. |
| Wood and articles of wood (product code: 44) | |
| Economic | <ul style="list-style-type: none"> Export to the EU (rank): 95 m€ (30th). Product export value / Total export value: 1%. Product export to the EU / Product total export: 2%. Evolution since entry into force of the EVFTA: +13%. |
| Social, Environmental and human rights | <ul style="list-style-type: none"> From 2000 to 2020, Vietnam experienced a net change of -645kha (-3.1%) in tree cover, 79% of which can be linked to deforestation patterns (urbanisation and commodity-driven deforestation mainly³²). Large amount of high-risk timber still imported to Vietnam for processing and export of wood products. |
| Existence of relevant legislation(s) | <ul style="list-style-type: none"> EU Timber Regulation (N° 995/2010) & EU Forest Law Enforcement, Governance and Trade (FLEGT) Regulation (N°2173/2005). Voluntary Partnership Agreement signed between the EU and Vietnam. Decree No.102/2020/ND-CP on Vietnam Timber Legality Assurance System (VNTLAS). EU Deforestation-free Product Regulation. |
| DAGs feedbacks | <ul style="list-style-type: none"> Interviewees confirmed timber as a key value chain to be considered. |
| Cattle (product code: 01) | |
| Economic | <ul style="list-style-type: none"> Export to the EU (rank): 2.4 m€ (78th). |
| Social, Environmental and human rights | <ul style="list-style-type: none"> High GHG emitting sector. |
| Relevant legislation(s) | <ul style="list-style-type: none"> EU deforestation-free Regulation. |
| DAGs feedbacks | <ul style="list-style-type: none"> No particular mention of the sector in the interviews. |
| Rice | |
| Economic | <ul style="list-style-type: none"> Export to the EU (rank): 20.7 m€ (46th). Evolution since 2021: +300%. Strongly benefited from EVFTA. |
| Social, Environmental and human rights | <ul style="list-style-type: none"> "Perhaps the most important crop in Vietnam's agricultural sector". Detrimental impact expected of Climate change, especially on rain-fed rice with 50% production decline on higher emissions pathways by 2040 (World Bank, 2021). |
| Relevant legislation(s) | <ul style="list-style-type: none"> No specific Due Diligence related legislation. |
| DAGs feedbacks | <ul style="list-style-type: none"> No particular mention of the sector in the interviews. |
| Fisheries and sea food | |
| Economic | <ul style="list-style-type: none"> Export to the EU (rank): 573 m€ (12th). Product export value / Total export value (rank): 2% Product export to the EU / Product total export: 11%. Evolution since entry into force of the EVFTA: -4%. |

³² Global Forest Watch / Vietnam. [Link](#).

| | |
|--|--|
| Social, Environmental and human rights | <ul style="list-style-type: none"> 40% decrease of Environmental Performance Index (EPI) on Fish Stock Status³³ in the last 10 years. Vietnam pre-identified as a non-cooperating 3rd country in fighting IUU fishing in October 2017 but its status did not evolve since. |
| Relevant legislation(s) | <ul style="list-style-type: none"> EU Illegal, unreported and unregulated fishing (IUU) regulation. Recent WTO agreement on fisheries subsidies as MC12. UN "high sea treaty" with potential consequences for fisheries practices. |
| DAGs feedbacks | <ul style="list-style-type: none"> Sector mentioned as area of interest during interviews. |

Heat map for the section of key value chains in the context of the EVFTA

Based on the methodology outlined in 2.2.1. and this short analysis of a number of relevant value chain, we developed the following heat map to select value chains for further analysis in the light of Due diligence obligations.

Table 10: Heat map for selection of key EU-Vietnam value chains

| | | Criteria / impact | | | | | | Large impact | Small impact | Selected Y/N |
|----------------------|--------------------|-------------------|--------|---------------|--------------|-------------|------|--------------|--------------|--------------|
| | | Economic | Social | Environmental | Human rights | Legislation | DAGs | | | |
| Sector / Value chain | Commodities | | | | | | | | | |
| | E&E Equipment | 1 st | | | | | | 5 | 1 | Y |
| | Machinery | 4 th | | | | | | 2 | 2 | N |
| | Footwear | 2 nd | | | | | | 4 | 1 | Y |
| | Apparel & clothing | 3 rd | | | | | | 4 | 1 | Y |
| | Coffee | 6 th | | | | | | 4 | 2 | Y |
| | Cattle | | | | | | | 0 | 2 | N |
| | Wood/timber | 30 th | | | | | | 2 | 3 | Y |
| | Rice | | | | | | | 2 | 1 | N |
| | Fishery & seafood | | | | | | | 2 | 1 | N |
| Iron and Steel | 5 th | | | | | | 1 | 3 | N | |

Legend: Light colour = small expected impact/ Dark colour = large expected impact.

Note: Economic criteria integrate the rank of Vietnam's export to the EU by value. By leaving some cells blank, we do not imply that no impact at all is expected on this particular criteria/value chain, but merely to indicate that the expected impact will be less important than for others which allows to prioritise the value chains to be selected for further analysis.

Based on this analysis, we retained 5 value Chains to be further analysed in the context of current and future Due Diligence legislations and requirements: Electrical & Electronic Equipment; Footwear; Apparel & clothing; Coffee & Wood/timber.

³³ EPI Fish stock status is the percentage of a country's total catch that comes from overexploited or collapsed stocks, considering all fish stocks within a country's exclusive economic zone (EEZs). [Link](#).

3. Review of relevant initiatives on due diligence processes in the EU and Vietnam

Companies, especially large ones, operate within complex global value chains involving a significant number of suppliers. This makes it difficult for them to identify and mitigate risks of adverse social, environmental and human rights impacts within their value chains. The exercise of due diligence processes and thus the production of more data will eventually facilitate actions aiming at addressing such impacts.

This section of the study seeks to list the existing and upcoming relevant legislations on Corporate Social Responsibility (CSR), Due Diligence (DD) & Responsible Business Conduct (RBC) processes³⁴ that are / will be adopted and implemented in the EU and Vietnam, with a particular focus on the upcoming EU legislation on Corporate Sustainability Due Diligence.

3.1. CSR & DD in the context of the EVFTA:

CSR is mentioned in two separate provisions of the Article 13 of the EVFTA on Trade and Sustainable Development (TSD Chapter):

- Art. 13.10 (e) (Trade and Investment Favouring Sustainable Development) states that *in accordance with their domestic laws or policies **agree to promote corporate social responsibility (...)**; measures for the promotion of corporate social responsibility include, among others, **exchange of information and best practices, education and training activities and technical advice.***
- Article 13.14 (Working Together on Trade and Sustainable Development) requests both parties to **promoting corporate social responsibility and accountability**, including with regard to the internationally agreed instruments that have been endorsed or are supported by each Party.

Yet, neither of these provisions pose any legal obligations on the matter to the parties. It aims to encourage the EU and Vietnam to work together to promote CSR or DD processes and legislations within their own domestic contexts and in accordance with their respective international obligations (in particular the core ILO conventions). These intentions are now yielding some results as Due Diligence aspects are now considered under collaborations mechanisms created in the context of the EVFTA, notably the Domestic Advisory Groups (DAGs). EU and Vietnam DAGs decided at the occasion of their 2nd meeting on 18 October 2022 to create a "common working group to deepen joint discussion on EU-Vietnam supply chains in the context of due diligence"³⁵. It is in that specific context that this study is developed, to analyse the recent EU proposal to create new Due Diligence requirements to grant market access to exporters in third countries, including Vietnam.

³⁴ We provide in table 3 some considerations on how these different terms are understood in the EU and Vietnam.

³⁵ Joint Statement of the 2nd EU-Vietnam DAG meeting, Hanoi, 18 October 2022. [Link](#).

3.2. The EU proposal for a Directive on Corporate Sustainability Due Diligence

The European Commission presented its CSDD proposal on the 23rd of February 2022. The stated objective of the proposal is to “foster sustainable and responsible corporate behaviour throughout global value chains” (European Commission, 2022), as it seeks to establish a corporate sustainability due diligence duty for companies to address their negative societal and environmental impacts. It is important to note that this chapter will mainly state and describe the provisions included in the European Commission’s proposal for an EU CSDD. These provisions are subject to change as policy development process is ongoing at the EU level and a final version of the legislation is unlikely to be agreed upon before the end of 2023.

Box 3: DD vs CSR in the EU and Vietnam

It is important to note that Due Diligence (DD) can often be confused with other similar concepts such as “Corporate Social Responsibility” (CSR) or “Responsible Business Conduct” (RBC). This is especially true when two different countries or regions such as the EU and Vietnam discuss the matter in the context of their trade relations. Such misinterpretation or even confusion on the terms can hinder fruitful cooperations on what remains a crucial concept for workers. It is therefore necessary to clarify what is usually meant by DD, CSR and RBC in the EU and Vietnam to ensure a common understanding of the recommendations made in that study.

Due diligence is mostly understood in Vietnam as a part of a Merger and Acquisition processes and the verification undertaken by an acquiring firm in order to thoroughly and completely assess the target company’s business, assets, capabilities, and financial performance before concluding the operation. This is mostly a financial process that is aimed at ensuring the success of a business operation and the future viability of the company. It has no (or very little) considerations for social or environmental aspects.

In the EU, Due Diligence relates to the notion that actions of private sector organisations have significant impacts on the lives of citizens around the world, both positive and negative. There is a growing recognition that these impacts go beyond the products and/or services they offer or the jobs and opportunities they create, but also affect society and the environment in which they operate. It is increasingly required of companies that they include working conditions, human rights, health, the environment, innovation, education and training considerations in their operations, to prevent, manage and mitigate any negative impact that they may cause.

DD is therefore extremely similar to CSR or RBC for the EU as the European Commission defines CSR specifically as “the responsibility of enterprises for their impact on society” and that companies can become “socially responsible by Integrating social, environmental, ethical, consumer, and human rights concerns into their business strategy and operations, or by following the law” (EC, 2011). These key elements of CSR or DD processes for companies and businesses are identified in relation to the OECD Guidelines (see

section 1.4) and UN Guiding Principles on Business and Human Rights (UNGPs)³⁶, which cover notably states' obligations to respect, protect and fulfil human rights and fundamental freedoms, and the role of the private sector when required to comply with all applicable laws and to respect human rights.

We therefore note that Due Diligence in the context of this study refers more to the European understanding of Due diligence, including of its social and environmental dimensions.

The EU CSDD proposal aims to go beyond existing voluntary actions taken by companies or national rules already introduced notably by EU Member States. It stipulates that companies will have to undertake due diligence "with respect to their own operations, the operations of their subsidiaries, and the value chain operations carried out by entities with whom the company has an established business relationship". This last term is being questioned among law makers as it carries great significance. It is so far described as "a business relationship, whether direct or indirect, which is, or which is expected to be lasting, in view of its intensity or duration and which does not represent a negligible or merely ancillary part of the value chain" (European Commission, 2022).

The new due diligence rules is proposed to apply only to the largest companies exporting to the EU with a threshold suggested for:

- Companies of 500+ employees and 150 million+ EUR in net turnover (worldwide for EU companies, EU-wide for non-EU companies).
- Companies of 250+ employees and 40 million+ EUR in net turnover (worldwide for EU companies, EU-wide for non-EU companies) operating in defined high impact sectors such as textiles, agriculture or the extraction of minerals. The rules for these companies will start to apply 2 years after the entry into force of the legislation.

Again, the figures presented above are only those proposed by the European Commission at this stage, and they might not be reflected in the final version of the legislation. The European Parliament for instance seems ready to propose lower threshold.

New obligations for the companies covered would include:

- ✓ Integrate due diligence into policies, monitor their effectiveness, and publicly communicate on the matter.
- ✓ Identify adverse human rights and environmental impacts, either actual (to be terminated or minimised) or potential (to be prevented or mitigated).
- ✓ Establish and maintain a complaints procedure to address such impacts.

³⁶ UN Guiding Principles on Business and Human Rights (UNGPs). [Link](#).

The largest companies (over €150 million turnover) must also “adopt a plan to ensure that the business model and strategy of the company” are compatible with the Paris Climate Agreement (European Commission, 2022).

In order to ensure that the entire line management of companies is involved in setting up DD processes, the proposal introduces directors' duties to set up and oversee the implementation of due diligence and to integrate it into their corporate strategy. When fulfilling their duty to act in the best interest of the company, directors will also be required to take into account the human rights, climate change and environmental consequences of their decisions. To make that particular provision more enforceable, the proposal suggests in some cases for directors' variable remuneration to be attached to the fulfilment of their new DD obligations.

Monitoring the implementation of such new requirements will be a particularly tricky point and the proposal so far leaves it to national administrative authorities. They will have the capacity to impose fines in case of non-compliance. In addition, victims will have the opportunity to take legal action for damages that could have been avoided with appropriate due diligence measures. This notion of civil liability and the explicit conditions under which a company could be held liable is heavily discussed as it carries the weight of the obligations imposed on companies to limit the risk of being taken to court over this new regulation. Another way to support the monitoring of the legislation would be to cater for the involvement of employees' or workers' representative bodies in the diligence mechanisms put in place by companies as part of their corporate strategies. The draft EU CSDD legislation so far focuses only on the roles of the directors, unlike other regulatory examples in France or Germany (see table 12).

Furthermore, we note that small and medium enterprises (SMEs) are so far not in the scope of this proposal, yet they may be indirectly affected as subsidiaries of a company falling into the scope of the legislation. The proposal therefore includes support measures such as the development of individually or jointly dedicated websites, platforms or portals and potential financial support for SMEs.

Overall, the proposal has the potential to foster sustainability globally by scaling quality due diligence processes, encouraging companies to tackle risks across their value chains, enhancing internal governance and accountability on sustainability risks, and expanding pathways to remedy for those harmed by business activity (Shift project, 2022). Yet, for the Directive to meet its stated ambition, its final version must effectively reflect key international standards on sustainability due diligence such as the OECD guidelines (see section 1.4). The legislation is expected to be formally approved at the EU level by the end of 2023 and would apply two years later for the larger set of companies (hence not before end of 2025), and four years later for companies in high-risk sectors (end of 2027).

3.3. Other DD legislations

Beyond this expected legislation, there are many other internationally agreed instruments that have been endorsed or are supported by the EU and/or Vietnam such as the Organisation for Economic Co-operation and Development Guidelines for Multinational Enterprises, the United Nations Global Compact or the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

Table 11: Non exhaustive list of relevant due diligence policies

| Relevant policies and legislations in the EU and Vietnam | |
|--|--|
| The EU and its member States | |
| Existing: <ul style="list-style-type: none"> EU strategy for sustainable and circular textiles (March 2022). EU Regulation on deforestation-free products (December 2022). Duty of Vigilance Act (France, 2017). Child Labour Due Diligence Act (The Netherlands, 2019). Supply Chain Act (Germany, 2023). | Proposal submitted: <ul style="list-style-type: none"> EU Directive on corporate sustainability due diligence (2023?). EU regulation to prohibit products made using forced labour, including child labour, on the EU internal market (2024?). EU Regulation on eco-design for sustainable products (2023?). |
| Vietnam | |
| Existing: <ul style="list-style-type: none"> Law No. 72/2020/QH14 on environmental protection (2022, entered into force in 2022). New Labour code and decree No. 145/2020/ND-CP on its implementation of some of its aspects. Decree No.102/2020/ND-CP on Vietnam Timber Legality Assurance System (VNTLAS) | Proposal submitted: <ul style="list-style-type: none"> |
| Other partners | |
| Existing: <ul style="list-style-type: none"> Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Dodd-Frank Act Section 1502 (US, 2010). Transparency in Supply Chains Act (California, US, 2012) | Upcoming / Proposal submitted: <ul style="list-style-type: none"> US Slave-Free Business Certification Act (proposal submitted in 2022) and Corporate Governance Improvement Act (2021). OECD Guidelines for Multinational Enterprises & Implementation Procedures (currently under revision) |

Source: Author.

Table 12: Comparison of scope among existing DD legislations

| Legislation | Scope |
|---|---|
| Directive on corporate sustainability due diligence (EU) | <ul style="list-style-type: none"> Companies of 500+ employees and 150 million+ EUR in net turnover (worldwide for EU companies, EU-wide for non-EU companies). Companies of 250+ employees and 40 million+ EUR in net turnover (worldwide for EU companies, EU-wide for non-EU companies) operating in defined high impact sectors |
| Duty of Vigilance Act (France) | French companies with over 5,000 employees in France or over 10,000 worldwide. |
| Supply Chain Act (Germany) | German-based companies with 3,000 or more employees in Germany, decreasing to 1,000 employees from 1 January 1, 2024. |
| Child Labour Due Diligence Act (The Netherlands) | All companies that sell or supply goods or services to Dutch consumers, no matter where the company is based or registered, with no exemptions for legal form or size. |
| Transparency in Supply Chains Act (California, US) | Retail Sellers or Manufacturers doing Business in the State of California with Annual Worldwide Gross Receipts in Excess of \$100,000,000. |

Source: Author.

3.4. The EU deforestation free product Regulation

420 million hectares of forest — an area larger than the EU — have been lost to deforestation between 1990 and 2020, most prominently driven by agricultural expansion and large-scale production of products such as soybeans, palm oil and cattle (FAO, 2022). Deforestation occurs primarily outside EU borders, yet European consumption was found responsible for 10% of global deforestation between 1990 and 2008³⁷. This indirect deforestation remains one of the EU's greatest challenges regarding progress towards achieving the Sustainable Development Goals.

The European Commission published its proposal³⁸ on 17 November 2021 under the European Green Deal to address this global challenge and EU institutions reached a political agreement on 6 December 2022 on the final version of the legislation³⁹. It will now become mandatory for companies to ensure that goods placed on the EU market have not led to deforestation and forest degradation anywhere in the world after 31 December 2020. This legislation has the potential to greatly reduce the EU's contribution to climate change and biodiversity loss globally (Blot, Oger, 2022). Yet, the ambition of the legislation eventually resides in the details on how to implement it effectively. The specific situation of smallholders is also to be considered as they might be disproportionately impacted by the new requirements introduced with this legislation (Blot, 2022).

Beyond the EUDR, the TSD Chapter of the EVFTA includes a full article (13.8) on Sustainable Forest Management and Trade in Forest Products where both Parties "*recognise the importance of ensuring the conservation and sustainable management of forest resources and combat illegal logging and related trade*". Yet most provisions under this article pertain to ensuring consistency with domestic laws and international treaties as well as exchanging information on best practices related to the above-mentioned overall objectives.

The most advanced provision (2.a) relates to "encouraging" both parties to promote trade in forest products from sustainably managed forests and harvested in accordance notably through the conclusion of the Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA). Despite the lack of strength in the legal language used, we see in the next section below that this has indeed been the approach taken by the EU and Vietnam although not without continuous challenges.

The lack of legal enforcement capacities of this article makes the EVFTA largely irrelevant in effectively combatting deforestation processes embedded in EU-Vietnam trade compared to the EUDR.

³⁷ <https://www.europarl.europa.eu/news/en/headlines/society/20221019STO44561/deforestation-causes-and-how-the-eu-is-tackling-it>

³⁸ COM(2021) 706 final: <https://data.consilium.europa.eu/doc/document/ST-14151-2021-INIT/en/pdf>

³⁹ <https://www.consilium.europa.eu/en/press/press-releases/2022/12/06/council-and-parliament-strike-provisional-deal-to-cut-down-deforestation-worldwide/>

4. Impact of EU trade-related measures on selected value chains and support mechanisms

We aim to build upon the findings of the previous sections to identify the challenges faced by stakeholders (public and private) in the selected value chains relating to existing or future Due Diligence processes and legislation. These challenges can take various forms such as (i) limited capacities to abide by complex, EU-focused, procedures; (ii) regulatory environment not conducive enough to instal due diligence processes; or (iii) lack of clarity or certainty for businesses on the rights and obligations they must comply with. The identification of these constraints then allows to analyse how the planned DD regulations affect or will affect stakeholders in the EU and Vietnam in the context of the EVFTA.

4.1. EUDR and CSDD impact on the selected value chains

Electrical & Electronic Equipment

Electronics has become one of the largest industries in the world and is expected to continue to grow as our societies continue to rely on constant technology use. The E&E equipment production and export sector covers a huge diversity of processes and stakeholders, from suppliers of raw materials to smelters, refineries, component producers, Research & Development actors, manufacturing and assembly, retailers etc. producing, processing and disseminating a wide range of different products. Should we take into account the full life cycle of E&E products, actors involved in recycling, upcycling or disposal of such products should also be included. Even when only looking only at the manufacturing and assembly phases of electronics hardware, the sector represents one of the largest industries in the world, with approximately 18 million workers who produce 20% of global imports (UNCTAD, 2015). The global market for electronics reached 4.22 trillion EUR in 2017 (Statista, 2018). Incidentally and as mentioned previously it is also by far the single most important export of Vietnam. The situation of the sector might be impacted by the end of the GSP rule as of January 2023. The new Rules of Origin (RoO) and reduced scope for cumulation that will apply under the EVFTA are of particular concern as Vietnam imports an important volume of electrical machinery and equipment from other GSP beneficiaries like the Philippines (Trade Economics, 2023).

Overall, the industry is characterised by its globalised, outsourcing, fragmentation, complexity, competitiveness, concentration and continuous product development nature, as well as a prevalent lack of transparency (Martin-Ortega and al, 2015). This makes it a particularly challenging value chain for meaningful due diligence processes.

In Vietnam, as in other developing countries, the sectors is particularly exposed to poor labour conditions such as low wages, unstable employment and the use of temporary workers in developing countries. It is also marked by a high presence of young and female working force. A study conducted by Electronics Watch and the Center for Development and Integration in Vietnam (2019) suggested that workers were particularly exposed to the breach of a number of labour standards such as freedom to choose an employment, freedom of Association and Right to Collective Bargaining, no Discrimination in employment, no excessive Working Hours, safe and Healthy Working Conditions, no abusive termination of employment or living wages.

A root cause analysis of these risks point mainly toward the lack of awareness by the companies' management and labour inspectors on the risks in the electronics industry. This is especially true regarding the cyclic characteristic of the industry which implies a strong reliance on temporary workers or regular excess of overtime limits during peak seasons with detrimental Occupational safety and health (OSH) consequences. This lack of awareness is made worse by the limited number of labour inspectors in Vietnam, especially those with specialised knowledge of the electronics industry. The lack of independence of many labour unions from the management also hinder awareness raising processes. To address some of these risks inherent to the sector would require specific legislations at the national level, especially regarding the necessary independence of labour unions from management to support grassroots unionists and eventually better address workers' conditions and complaints. Yet we can also assume that targeted support initiatives financed by the EU could for instance include conducting and sharing further studies of the risks in the industry combined with trainings for labour inspectors on these risks.

Due diligence legislations could also take these risks into account by ensuring that leading electronic firms (i.e. those eventually covered for instance by the EU CSDD) and their direct suppliers do not cause or contribute to labour rights or safety breaches. This could take the form for instance of ensuring that leading firms did consult with their suppliers on the delivery schedule and their internal capacity, especially during peak seasons, when deciding upon the contract to prevent pushing the suppliers into a situation where exceeding overtime limits and other labour standards violations becomes necessary to abide by the contract. DD legislations could also include transparency and reporting considerations related to purchase prices to ensure that leading firms avoid paying a price to their suppliers that makes it impossible for the goods to be produced or the services to be performed in compliance with labour rights and safety standards.

Coffee

Vietnam is the second largest coffee producer in the world with 29 million 60kg bags produced in 2020, far behind the world's largest producer, Brazil (69 million bags), but significantly in front of the third, Columbia (14 million bags)⁴⁰. A third of Vietnam's total coffee export went to the EU in 2021 for a value of close to 1 billion EUR which ranks 6th in the country's exports⁴¹.

There are currently about 113 coffee processing and exporting companies in Vietnam, two third of which do not have factories processing coffee directly for export but rely on a system of traders and agents to buy coffee from smaller producers and export it (Nhưng Thị Hồng Thảng, 2022). The production of coffee in Vietnam is therefore highly linked to the livelihoods of small farmers and producers, 500,000 of whom are estimated to be producing coffee in the country (Blot and al. 2022). The sector is also highly vulnerable to climate change as studies projects that many key coffees growing areas of Vietnam's central highlands will become unsuitable for coffee under intermediate emissions pathways (Bunn and al, 2015, World Bank, 2022). Coffee is therefore a crucial value chain for the sustainable development of Vietnam which makes appropriate Due Diligence systems in the sector all the more relevant.

⁴⁰ Coffee production worldwide in 2020 by leading country. Statista. [Link](#).

⁴¹ ITC trade Maps. See section 2.2.2.

Yet, there is no specific domestic DD legislation in Vietnam covering coffee production, nor its exports to the EU beyond the voluntary practices that larger corporations can put in place internally as we saw in the E&E value chain. The EVFTA does not include specific provisions on the matter beyond calls for relevant collaborations mentioned above, yet the latest EU policy developments may change the picture with the recent adoption of the EU Deforestation Free Product Regulation in December 2022⁴² aiming to make mandatory for companies to ensure that goods placed on the EU market have not led to deforestation and forest degradation anywhere in the world after 31 December 2020.

420 million hectares of forest — an area larger than the EU — have been lost to deforestation between 1990 and 2020 and European consumption was found responsible for 10% of global deforestation between 1990 and 2008 (FAO, 2020). Addressing this indirect deforestation is the main objective of this new regulation yet it is raising concerns that it will bring undue burden to those depending on the production and selling (eventually for export) of the commodities covered by the legislation which include coffee and timber (see section below) among others (such as cattle, cocoa or soya).

Under the new regulation, companies will be required to collect precise geographical information on the farmland where the commodities that they source have been grown and issue a so-called “due diligence” statement that these commodities are compliant with the new EU legislation as well as local deforestation laws when entering the EU market. EU authorities will have the capacity to check this statement through monitoring and verification tools such as geolocation coordinates and satellite monitoring, or DNA analysis, and conduct checks to verify where the products come from. The legislation also includes the obligation for companies, as additional requirements, to verify compliance with relevant legislation of the country of production that the rights of concerned indigenous people have been respected.

The EU will classify countries, or part thereof, into low, standard or high risk to determine the level of scrutiny for commodities exported from these countries or regions into the EU with proportion of checks on operators will be of 9% for high risk, 3% for standard risk and 1% for low risk. We note that this benchmark does not differentiate the severity of the requirements that operators will have to comply to but focuses on the number of checks. There is still a lack of clarity as to the criteria that will be used to determine which category a country or region would fall into and therefore it is not possible to determine at this stage in which category Vietnam might fall into. This is of course of particular importance for Vietnam’s coffee exporters, and in particular of its smallholders and producers which are most vulnerable to external shocks.

It is estimated that 131,597 smallholders are directly exporting coffee to the EU in 2022 (Blot and al. 2022) and would therefore be directly covered by the new obligation set forth by the regulation. Yet it is highly likely than many more are involved in different ways in the production and processing of coffee thus the actual number of small holders impacted should be closer to 500.000 as noted above or even higher⁴³. Furthermore, communities such as ethnic minorities, women and children, living near forests are regularly involved for their subsistence

⁴² European Commission press release. [Link](#).

⁴³ Comments during interview conducted mentioned that 6 million people eventually depend on coffee in Vietnam while 80% of coffee production in Vietnam is done by small farmers (1-2 Ha).

in commodity (including coffee) deforestation and are among those most vulnerable to any changes to the rules of the market (Vu Thi Bich Hop, 2022).

The coffee value chain is therefore expected to be quite impacted by Due Diligence requirements coming from the EU, yet most likely not through the upcoming dedicated CSDD legislation but through the deforestation free product regulation. In that context, targeted support measures for small farmers to understand the requirements of the European Union Deforestation-free products Regulation (EUDR) and better engage in the coffee value chain will be key. These capacity building activities for smallholders in Vietnam could easily be undertaken by the EU and other funders through existing or future cooperation programmes (see section 4.2). Systematic and meaningful consultations of civil society in the context of the EU-Vietnam DAGs should also be encouraged throughout the EVFTA implementation as they remain best placed to provide evidence-based policy recommendations and inform policy makers for the enactment of sensible legislations.

Textile Value chain

Global textiles⁴⁴ production close to doubled between 2000 and 2015 (EMF, 2017), and this trend is expected to continue with consumption of clothing and footwear expected to increase by another 63% to 102 million tonnes in 2030 (EEA, 2019). The EU has a direct impact on such trends as it is the largest importer of clothing worldwide for a value of €154 billion in 2019, almost half of which came from developing countries (Eurostat, 2020). The sector is particularly key for Vietnam as represents 14% of the country's total export (ITC, 2022). The country is the fourth largest exporter of textiles and apparel globally (after China, India and Bangladesh) and the 6th external EU source of apparel⁴⁵. In 2018, the textile sector was estimated to employ more than three million people, with a total of 7,000 factories across the country⁴⁶. These trends are supported by the EVFTA, under which Vietnam can export apparel products on a tariff-free basis to the EU. Such figures translate into environmental impacts as the European consumption of textiles currently represents the fourth highest negative life cycle impacts on the environment and climate change, after food, housing, and mobility (Duhoux et al, 2022).

While the sector is crucial for the economy of Vietnam and carries significant environmental considerations. It is also prone to serious risks of human and labour rights violations, including child labour, discrimination, forced labour, occupational health and safety concerns, and unfair wages (OECD, 2018). The sector also carries vital gender considerations as it is estimated that 75% of global garment workers are women⁴⁷. Due Diligence principles could be instrumental in addressing such risks, yet the textile sector was approached so far mostly through circular economy considerations as an indirect way to address labour conditions in terms for instance of toxic work environment⁴⁸.

⁴⁴ In this section, we will consider at times the exports of "footwear, gaiters and the like", as well as "articles of apparel and clothing accessories" under the appellation "textile". As there is no particular due diligence regulation that would make the differentiation between these two value chains at the moment, we do not consider that this would significantly alter the findings.

⁴⁵ CBI (2022). what is the demand for apparel on the European market? [Link](#).

⁴⁶ WWF (2018). Textile and Garment Sector in Vietnam: Water Risks and Solution. [Link](#).

⁴⁷ SWD (2017) Sustainable garment value chains through EU development action. [Link](#).

⁴⁸ See e.g. EC communication on a zero pollution ambition aiming to ensure that no harm to human health or the environment is caused by pollution ([COM\(2021\) 400](#)) or the Chemicals Strategy for Sustainability ([COM\(2020\) 667 final](#)) that includes working towards more ambitious global action on the sustainable management of chemicals worldwide which affect workers' safety.

The Vietnamese government for instance recently developed national legislations such as the Law on Environmental Protection which entered into force in January 2022 to foster a circular textiles industry in the country. Yet, current activities and legislations that seek to enhance sustainability in the textiles and apparel sector in Vietnam do tend to focus on greening the production processes (Van der Ven, 2022). That is also true for the future EU regulation on Ecodesign for Sustainable Products also known as the Sustainable Product Initiative (SPI). The proposal published by the EC on 30 March 2022 foresees the introduction of a Digital Product Passport for textiles including mandatory information requirements on the conditions in which the products was produced. Calls were made for this passport to include information on a product's social footprint e.g. requiring manufacturers to prove that their products are not linked to human rights abuses, for example. Yet these additional reporting requirements will focus on circularity and other key environmental aspects as the proposal specifically states that "due to the adoption of the Commission Proposal for a Directive on Corporate Sustainable Due Diligence, it was deemed appropriate to exclude requirements on social aspects from the scope of this legislative proposal"⁴⁹.

Eventually the most relevant aspect for future DD legislation in the sector is its inclusion in the "high impact" category under the EU CSDD proposal which means that more companies trading in textiles would fall under the scope of the legislation and see their reporting requirements improved. It is therefore left to the type of provisions eventually put forward in the final version of the legislation. These should in particular integrate the following aspects identified as key to improve the labour conditions in the sector by the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector which was published in 2017⁵⁰:

- Focus on prevention and follow a Risk based approach.
- Moves beyond company own operations & direct suppliers, e.g. to tier 2/3 & subcontractors.
- Involves workers at every stage.
- Includes a focus on purchasing practices.

Timber value chain.

From 2000 to 2020, Vietnam experienced a net change of -645kha (-3.1%) in tree cover⁵¹. Although this indicator should not be confused with "deforestation" as tree cover loss includes change in both natural and planted forest and does not need to be human caused, it is still estimated that 79% of this loss occurred in areas where the dominant drivers of loss are urbanisation and commodity-driven deforestation. This is also due to the sheer growth of Vietnam's timber sector as the country now ranks 3rd in Asia and 11th in the world for the value of its timber product exports⁵².

⁴⁹ COM(2022) 142 final - 2022/0095 (COD). [Link](#).

⁵⁰ OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector. Available [here](#).

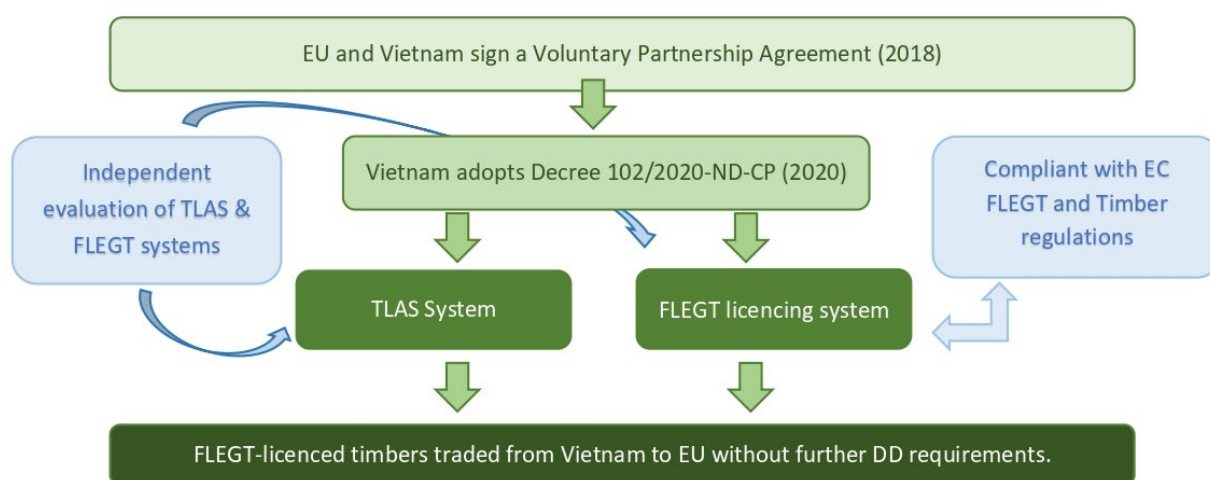
⁵¹ Global Forest Watch. [Link](#).

⁵² OEC. Wood products. [Link](#).

We note that Vietnam exports of timber products are down for the past year, including to the EU. Export orders since the beginning of 2022 decreased significantly, with a 38% year-on-year decline in June and a continued drop by 5.5% in July⁵³. This is mostly due to the difficulties of navigating high inflation and interest rates, the increased freight costs due to the conflict between Russia and Ukraine, and the lower demand of timber products after an all-time high during the covid period where many housing renovation work were undertaken in Vietnam's main exports markets such as the US, UK or the EU. Such tensions also incurred supply challenges for the industry as Vietnam 5.79 million m³ of round wood equivalent (RWE) in 2020 (To Xuan Phuc and al, 2021). These issues could therefore be considered contextual and not mean a sustained decline for the sector over a longer period of time.

The Vietnam Government's commitment to remove illegal timber from the supply chain was reflected in the signing of a Voluntary Partnership Agreement on Forestry Law Enforcement, Governance and Trade (VPA FLEGT) with the EU in 2018. Vietnam also subsequently adopted Decree 102/2020-ND-CP, also known as the VNTLAS Decree (Vietnam, 2020) installing a national Timber Legality Insurance System (TLAS). The Decree 102 is expected to be revised towards the 3rd quarter of 2023 to remedy some of the weaknesses in the current VNTLAS system and ultimately leading to moving into FLEGT test licensing stage to be compliant with the EU FLEGT Regulation of 2005 (European Council, 2005) and the EU Timber Regulation of 2010 (European Union, 2010).

Graph 3 : Timber legal certification system between the EU and Vietnam.



Source: Author.

Specific voluntary processes were put in place following these legal developments such as the Due Diligence System (DDS) of the Handicraft and Wood Industry Association of Ho Chi Minh City (See Box 4). The EU legal system has now been reinforced with the EU regulation on Deforestation-free Product which repeals and replace the EU timber regulation. While a FLEGT licence remains proof of legality under this new regulation, licensed timber and wood products, like other goods, would have to undergo the additional further due diligence requirement designed to minimise and mitigate the risk of their harvesting and production being implicated in deforestation and forest degradation (see above in the section on coffee value chain).

⁵³ Forest trends. [Link](#).

Box 4: Example of due diligence system in the timber sector in Vietnam

the Handicraft and Wood Industry Association of Ho Chi Minh City (HAWA) developed a Due Diligence System (DDS) with support of the FAO-EU FLEGT Programme.

Established in 1991, HAWA is a Non-Governmental Organisation and Volunteer Association with nearly 400 company members operating in wood processing, handicrafts (bamboo, rattan, water hyacinth, etc.), trade and service providers.

The HAWA DDS is an IT platform supporting transparency and due diligence for each seller-buyer transaction involving HAWA DDS members. For domestic timber sources, real-time and georeferenced evidence can be uploaded together with the required documentation or verifiers listed in the Legality Definition of the VNTLAS. The HAWA DDS team flags possible risks and makes all information available to potential buyers. As well as providing the opportunity for forest owners to register their plantations and document their harvests, the platform contains a trading module to facilitate and document a transparent due diligence process for all transactions and sales along the timber supply chain. The project also provides corresponding training to ensure the system's overall effectiveness. More information can be found [here](#).

The timber Value Chain can therefore be considered as the most heavily regulated in terms of due diligence requirements between the EU and Vietnam. Yet ongoing case studies seem to demonstrate that in effect little progress have been made in terms of labour conditions in the sector. They notably finds that practices such as lack of a living wage paid to workers, weak recruitment processes such as recurrent reliance on subcontractors thus creating double standards, toxic working environment (high levels of dust, toxic chemicals used), lack of effective union representation, or even weak certification and standards are widespread in the companies surveyed. A lot of work therefore remains to be done on the matter.

Beyond the working conditions, due diligence processes to combat illegal logging and eventually deforestation remain difficult. Assessing the legality of imported timber is difficult, as species verification, complex regional and global supply chains, and international regulation demand extensive knowledge and skills. Because the VNTLAS is a new initiative, acquiring this level of expertise takes time. We will outline in the next section some existing support measures designed to overcome these barriers.

4.2. Support mechanisms

Ultimately this desk study seeks to identify and outline cooperation mechanisms aiming to support stakeholders to comply to their existing or future obligations in terms of due diligence, thus providing DAG members with new information and capacities to address the issue efficiently. These mechanisms can be from the EU or occur in the context of other multilateral or multi-stakeholders' initiatives. This task builds on all previous activities under this project and is crucial to eventually promote due diligence in selected supply chains between the EU and Vietnam.

We list below, although not exhaustively, the projects and programmes in direct support of more sustainable practices in relevant value chains between the EU and Vietnam.

Table 13: Cooperation projects to support sustainable EU-Vietnam value chains between the EU and Vietnam

| Relevant cooperation projects between the EU and Vietnam |
|--|
| <p>Ongoing projects:</p> <ul style="list-style-type: none"> ▪ ARISE+ Vietnam (EU, 6.4mEUR, 2018-2023): aims to support the integration of the Vietnam’s economy into the global production chain through targeted support to both public and private sectors. The Project will support the Vietnamese Government to reap the benefits of new bilateral and regional trade commitments, with a focus on the implementation of the EU-Vietnam Free Trade Agreement (EVFTA). More information here. ▪ Responsible Supply Chains in Asia Programme (OECD, ILO, EU; 2018-2022): Covering Japan, China, Thailand, Vietnam, the Philippines, and Myanmar, the project aims to support in-country policy developments and action to create an enabling environment for Responsible Business Conduct (RBC), to boost industry capacity and to raise awareness of the importance of RBC. More information here. ▪ Trade for Decent Work Project (EU, ILO, Finland, 8.5mEUR, 2019-2022): covers Vietnam, Bangladesh, and Myanmar. The project aims at improving the application of the ILO fundamental Conventions in EU trading partner countries through improved labour relations and working conditions. More information here. ▪ Training course on the Voluntary Partnership Agreement on Forestry Law Enforcement, Governance and Trade (EU, GIZ, FCDO, Vietnam Administration of Forestry and the General Department of Vietnam Customs): training course for representatives from state agencies and timber import enterprises nationwide on import controls, the timber supply chain, and timber species identification. More information here. ▪ DDS e-training course (Preferred by Nature and GIZ): This e-course aims to ensure that law enforcement, timber businesses, and other stakeholders have the opportunity to learn about the VNTLAS and due diligence processes in the timber value chain. More information here. ▪ Free timber legality toolkit to support Vietnam's efforts to tackle illegal logging (Preferred by Nature): More information here. |
| <p>Recent projects:</p> <ul style="list-style-type: none"> ▪ Improved Governance in Herbal Value Chain (EU, 550.000 EUR, 2017-2021): the overall objective of this action was to promote the contribution of CSOs to improved governance in herbal medicine value chain. More information here. ▪ Business and Human Rights in Trade Relations and Global Supply Chains in Vietnam (EU, 500.000 EUR, 2018-2021): The overall objective was to ensure Human Rights Due Diligence in global value chains through the promotion of civil society participation in the implementation of international labour and human rights standards in trade and sustainable development, with special focus on the electronics, footwear & garment industries in Vietnam. More info here. ▪ Inclusive and Sustainable Clam and Bamboo Value Chains Development in Vietnam (EU, 4.3mEUR, 2018-2022): The objective of the action was to increase farmers' and processors' income through better market access and better organisation of clam and bamboo value chains. More information here. |

5. Conclusion and recommendations

Trading relations with the EU have a considerable impact on third countries, including on social and environmental issues, and on their capacity to achieve the UN Sustainable Development Goals. The global impact of the EU economy on the environment and on the social rights of millions of workers around the world through global value chains comes with a responsibility to address potential adverse effects of these trade relations. The publication by the European Commission of a proposal for an EU legislation on Corporate Sustainability Due Diligence as well as the recent adoption of the EU Deforestation free products Regulation are part of that objective.

Companies operate in complex environments and increasingly rely on globalised value chains which include a significant number of suppliers. This makes adequate policies to address EU external impacts all the more difficult to implement as they require comprehensive identification and mitigation processes for adverse impacts throughout companies' value chains and integrating sustainability into their management systems. The integration of these new processes will become easier if more companies exercise due diligence and thus more data is available on human rights and environmental adverse impacts.

This study assessed the potential impact of the EU CSDD as well as other relevant legislations such as the EUDR on specific EU-Vietnam value chains and proposes several recommendations to promote ambitious objectives for the legislation.

General recommendations

Potentially the most important recommendation coming out of the interviews conducted with EU-Vietnam Domestic Advisory Groups for the purpose of this study is for the European Commission to engage without delay in diplomatic efforts to promote the adoption by the Government of Vietnam of a national due diligence regulation consistent with international standards⁵⁴. This recommendation is also valid for the EU institutions which are still in the process of negotiating the final version of the EU CSDD Directive at the time of publication of this study. Considerations such as Climate Change Due Diligence processes should also be considered in the final text (Gore T. et al., 2022).

The adoption of consistent DD regulations by both partners would provide economic operators with a transparent level-playing field thus greatly facilitating sustainable trade relations between both partners.

Sectoral recommendations

Looking at the specific value chains considered in this study, we can make a number of recommendations which we list below.

We note however that most of these recommendations although stemming from a sectoral analysis can be understood and applied at a general level.

⁵⁴ E.g. UN Guiding Principles on Business and Human Rights or OECD Due Diligence Guidance for Responsible Business Conduct

Electronics:

1. The EU to provide targeted support (including financial) to conduct and share further studies of the risks inherent to the electronics sector combined with activities designed to build capacities of government officials and labour inspectors on the matter.
2. EVFTA DAGs to discuss and address issues pertaining to the necessary independence of labour unions from management to support grassroots unionists and eventually better identify and address workers' conditions and complaints when necessary.
3. The EU to also take these risks into account by requiring adequate purchasing practices for companies covered by its upcoming Due Diligence legislations so that they and their direct suppliers do not cause or contribute to labour rights or safety breaches.

Coffee:

4. The EU to provide support for capacity building activities of CSOs, local small producer communities and local authorities to understand the requirements of the EUDR and CSDDD and better engage in relevant value chain.
5. The EU to promote systematic consultations of civil society in the context of the DAGs to provide evidence-based policy recommendations and inform policy makers. This should be accompanied by technical and financial support to build capacity of CSOs to do so.

Textile:

6. The EU to promote awareness amongst government officials, companies' workers and management as well as civil society on the recommendations regarding textile supply chain due diligence in global standards such as the OECD Due Diligence guidance for responsible supply chains in the garment and footwear sector.
7. The EU to provide support to identify and fill the knowledge gaps for the alignment of public and private initiatives in the sector with these global standards.

Timber:

8. The EU to provide support for capacity building activities of smallholders to understand the new requirements implied by the EUDR for the sector, as well as existing legislation and processes such as the EU-Vietnam VPA FLEGT system and Vietnam VNTLAS Decree.

General trade and climate recommendations for EU and Vietnam

In addition to these recommendations specifically targeted at DD processes, we comment on what could be done to ensure that trade & climate policies in the EU and Vietnam are mutually reinforcing toward the achievement of the objective of the Paris Agreement and the SDGs.

9. Support ongoing efforts at the multilateral level to increase transparency on the carbon intensity of trade through traceability of carbon use along value chains.
10. Facilitate the imports of clean technologies by cutting non-tariff measures applied on environmental goods and services in the context of the EVFTA.

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